

107TH CONGRESS
2D SESSION

H. R. 5466

To amend the Internal Revenue Code of 1986 to simplify and reduce the capital gain rates for all taxpayers and to exclude from gross income 55 percent of the dividends received by individuals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2002

Mr. REYNOLDS (for himself and Mr. DOOLITTLE) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to simplify and reduce the capital gain rates for all taxpayers and to exclude from gross income 55 percent of the dividends received by individuals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Restoring Investor
5 Confidence Act of 2002”.

1 **SEC. 2. 55-PERCENT CAPITAL GAINS DEDUCTION FOR TAX-**
2 **PAYERS OTHER THAN CORPORATIONS.**

3 (a) IN GENERAL.—Section 1202 of the Internal Rev-
4 enue Code of 1986 is amended to read as follows:

5 **“SEC. 1202. CAPITAL GAINS DEDUCTION.**

6 “(a) GENERAL RULE.—If for any taxable year a tax-
7 payer other than a corporation has a net capital gain, 55
8 percent of such gain shall be a deduction from gross in-
9 come.

10 “(b) ESTATES AND TRUSTS.—In the case of an es-
11 tate or trust, the deduction shall be computed by excluding
12 the portion (if any) of the gains for the taxable year from
13 sales or exchanges of capital assets which, under sections
14 652 and 662 (relating to inclusions of amounts in gross
15 income of beneficiaries of trusts), is includible by the in-
16 come beneficiaries as gain derived from the sale or ex-
17 change of capital assets.

18 “(c) COORDINATION WITH TREATMENT OF CAPITAL
19 GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—
20 For purposes of this section, the net capital gain for any
21 taxable year shall be reduced (but not below zero) by the
22 amount which the taxpayer takes into account as invest-
23 ment income under section 163(d)(4)(B)(iii).

24 “(d) TRANSITIONAL RULE.—

1 “(1) IN GENERAL.—In the case of a taxable
2 year which includes January 1 of the year following
3 the date of enactment of this section—

4 “(A) the amount taken into account as the
5 net capital gain under subsection (a) shall not
6 exceed the net capital gain determined by only
7 taking into account gains and losses properly
8 taken into account for the portion of the tax-
9 able year on or after such January 1, and

10 “(B) the amount of the net capital gain
11 taken into account in applying section 1(h) for
12 such year shall be reduced by the amount taken
13 into account under subparagraph (A) for such
14 year.

15 “(2) SPECIAL RULES FOR PASS-THRU ENTI-
16 TIES.—

17 “(A) IN GENERAL.—In applying paragraph
18 (1) with respect to any pass-thru entity, the de-
19 termination of when gains and losses are prop-
20 erly taken into account shall be made at the en-
21 tity level.

22 “(B) PASS-THRU ENTITY DEFINED.—For
23 purposes of subparagraph (A), the term ‘pass-
24 thru entity’ means—

25 “(i) a regulated investment company,

- 1 “(ii) a real estate investment trust,
- 2 “(iii) an S corporation,
- 3 “(iv) a partnership,
- 4 “(v) an estate or trust, and
- 5 “(vi) a common trust fund.”.

6 (b) DEDUCTION ALLOWABLE IN COMPUTING AD-
 7 JUSTED GROSS INCOME.—Section 62(a) of such Code (de-
 8 fining adjusted gross income) is amended by inserting
 9 after paragraph (17) the following new paragraph:

10 “(18) LONG-TERM CAPITAL GAINS.—The de-
 11 duction allowed by section 1202.”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) Section 1 of such Code is amended by strik-
 14 ing subsection (h).

15 (2) Section 170(e)(1) of such Code is amended
 16 by striking “the amount of gain” in the material fol-
 17 lowing subparagraph (B)(ii) and inserting “45 per-
 18 cent (50 percent in the case of a corporation) of the
 19 amount of gain”.

20 (3) Section 172(d)(2)(B) of such Code is
 21 amended to read as follows:

22 “(B) the deduction under section 1202
 23 shall not be allowed.”.

24 (4) The last sentence of section 453A(c)(3) of
 25 such Code is amended by striking all that follows

1 “long-term capital gain,” and inserting “the max-
2 imum rate on net capital gain under section 1201 or
3 the deduction under section 1202 (whichever is ap-
4 propriate) shall be taken into account.”.

5 (5) Section 642(c)(4) of such Code is amended
6 to read as follows:

7 “(4) ADJUSTMENTS.—To the extent that the
8 amount otherwise allowable as a deduction under
9 this subsection consists of gain from the sale or ex-
10 change of capital assets held for more than 1 year,
11 proper adjustment shall be made for any deduction
12 allowable to the estate or trust under section 1202
13 (relating to capital gains deduction). In the case of
14 a trust, the deduction allowed by this subsection
15 shall be subject to section 681 (relating to unrelated
16 business income).”.

17 (6) The last sentence of section 643(a)(3) of
18 such Code is amended to read as follows: “The de-
19 duction under section 1202 (relating to capital gains
20 deduction) shall not be taken into account.”.

21 (7) Section 643(a)(6)(C) of such Code is
22 amended by inserting “(i)” before “there shall” and
23 by inserting before the period “, and (ii) the deduc-
24 tion under section 1202 (relating to capital gains de-
25 duction) shall not be taken into account”.

(8)(A) Section 904(b)(2) of such Code is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following:

“(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.”.

(B) Section 904(b)(2)(A) of such Code, as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

“(A) CORPORATIONS.—In the case of a corporation—”, and

(ii) in clause (i), by striking “in lieu of applying subparagraph (A),”.

(C) Section 904(b)(3) of such Code is amended by striking subparagraphs (D) and (E) and inserting the following:

“(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of

1 net capital gain from sources within the United
2 States over net capital gain, as the case may
3 be, is the same proportion of such amount as
4 the excess of the highest rate of tax specified in
5 section 11(b) over the alternative rate of tax
6 under section 1201(a) bears to the highest rate
7 of tax specified in section 11(b).”.

8 (D) Section 593(b)(2)(D)(v) of such Code is
9 amended—

10 (i) by striking “if there is a capital gain
11 rate differential (as defined in section
12 904(b)(3)(D)) for the taxable year,” and

13 (ii) by striking “section 904(b)(3)(E)” and
14 inserting “section 904(b)(3)(D)”.

15 (9) Section 1044(d) of such Code is amended
16 by striking the last sentence.

17 (10)(A) Section 1211(b)(2) of such Code is
18 amended to read as follows:

19 “(2) the sum of—

20 “(A) the excess of the net short-term cap-
21 ital loss over the net long-term capital gain, and

22 “(B) one-half of the excess of the net long-
23 term capital loss over the net short-term capital
24 gain.”.

1 (B) So much of section 1212(b)(2) of such
2 Code as precedes subparagraph (B) thereof is
3 amended to read as follows:

4 “(2) SPECIAL RULES.—

5 “(A) ADJUSTMENTS.—

6 “(i) For purposes of determining the
7 excess referred to in paragraph (1)(A),
8 there shall be treated as short-term capital
9 gain in the taxable year an amount equal
10 to the lesser of—

11 “(I) the amount allowed for the
12 taxable year under paragraph (1) or
13 (2) of section 1211(b), or

14 “(II) the adjusted taxable income
15 for such taxable year.

16 “(ii) For purposes of determining the
17 excess referred to in paragraph (1)(B),
18 there shall be treated as short-term capital
19 gain in the taxable year an amount equal
20 to the sum of—

21 “(I) the amount allowed for the
22 taxable year under paragraph (1) or
23 (2) of section 1211(b) or the adjusted
24 taxable income for such taxable year,
25 whichever is the least, plus

1 “(II) the excess of the amount
2 described in subclause (I) over the net
3 short-term capital loss (determined)
4 without regard to this subsection) for
5 such year.”.

6 (C) Section 1212(b) of such Code is amended
7 by adding at the end of the following:

8 “(3) TRANSITIONAL RULE.—In the case of any
9 amount which, under this subsection and section
10 1211(b) (as in effect for taxable year beginning be-
11 fore January 1, 2003), is treated as a capital loss
12 in the first taxable year beginning after December
13 31, 2002, paragraph (2) and section 1211(b) (as so
14 in effect) shall apply (and paragraph (2) and section
15 1211(b) as in effect for taxable years beginning
16 after December 31, 2002, shall not apply) to the ex-
17 tent such amount exceeds the total of any capital
18 gain net income (determined without regard to this
19 subsection) for taxable years beginning after Decem-
20 ber 31, 2002.”.

21 (11) Section 1402(i)(1) of such Code is amend-
22 ed by inserting“, and the deduction provided by sec-
23 tion 1202 shall not apply” before the period at the
24 end thereof.

1 (12) Section 1445(e) of such Code is amend-
2 ed—

3 (A) in paragraph (1), by striking “35 per-
4 cent (or, to the extent provided in regulations,
5 20 percent)” and inserting “17.5 percent (or, to
6 the extent provided in regulation, 15.6 per-
7 cent)”, and

8 (B) in paragraph (2), by striking “35 per-
9 cent” and inserting “17.5 percent”.

10 (13)(A) The second sentence of section
11 7518(g)(6)(A) of such Code is amended—

12 (i) by striking “during a taxable year to
13 which section 1(h) or 1201(a) applies”, and

14 (ii) by striking “20 percent (34 percent”
15 and inserting “10 percent (15.3 percent”.

16 (B) The second sentence of section
17 607(h)(6)(A) of the Merchant Marine Act, 1936 is
18 amended—

19 (i) by striking “during a taxable year to
20 which section 1(h) or 1201(a) of such Code ap-
21 plies”, and

22 (ii) by striking “20 percent (34 percent”
23 and inserting “10 percent (15.3 percent”.

1 (14) The item relating to section 1202 in the
2 table of sections for part I of subchapter P of chap-
3 ter 1 of such Code is amended to read as follows:

 “Sec. 1202. Capital gains deduction.”.

4 (d) EFFECTIVE DATES.—

5 (1) IN GENERAL.—Except as otherwise pro-
6 vided in this subsection, the amendments, made by
7 this section apply to taxable years ending after De-
8 cember 31 of the year which includes the date of en-
9 actment of this Act.

10 (2) REPEAL OF SECTION 1(h).—The amend-
11 ment made by subsection (c)(1) applies to taxable
12 years beginning on or after January 1 of the year
13 following the date of enactment of this Act.

14 (3) CONTRIBUTIONS.—The amendment made
15 by subsection (c)(2) applies to contributions on or
16 after January 1 of the year following the date of en-
17 actment of this Act.

18 (4) USE OF LONG-TERM LOSSES.—The amend-
19 ments made by subsection (c)(10) apply to taxable
20 years beginning on or after January 1 of the second
21 year following the date of enactment of this Act.

22 (5) WITHHOLDING.—The amendments made by
23 subsection (c)(12) apply only to amounts paid on or
24 after January 1 of the year following the date of en-
25 actment of this Act.

1 **SEC. 3. 55-PERCENT EXCLUSION OF DIVIDEND INCOME**
2 **FROM TAX.**

3 (a) IN GENERAL.—Part III of subchapter B of chap-
4 ter 1 of the Internal Revenue Code of 1986 (relating to
5 amounts specifically excluded from gross income) is
6 amended by inserting after section 115 the following new
7 section:

8 **“SEC. 116. 55-PERCENT EXCLUSION OF DIVIDENDS RE-**
9 **CEIVED BY INDIVIDUALS.**

10 “(a) EXCLUSION FROM GROSS INCOME.—Gross in-
11 come does not include 55 percent of the amounts received
12 during the taxable year by an individual as dividends from
13 domestic corporations.

14 “(b) CERTAIN DIVIDENDS EXCLUDED.—Subsection
15 (a) shall not apply to any dividend from a corporation
16 which, for the taxable year of the corporation in which
17 the distribution is made, or for the next preceding taxable
18 year of the corporation, is a corporation exempt from tax
19 under section 501 (relating to certain charitable, etc., or-
20 ganization) or section 521 (relating to farmers’ coopera-
21 tive associations).

22 “(c) SPECIAL RULES.—For purposes of this sec-
23 tion—

24 “(1) EXCLUSION NOT TO APPLY TO CAPITAL
25 GAIN DIVIDENDS FROM REGULATED INVESTMENT

1 COMPANIES AND REAL ESTATE INVESTMENT
2 TRUSTS.—

“For treatment of capital gain dividends, see sections 854(a) and 857(c).

3 “(2) CERTAIN NONRESIDENT ALIENS INELI-
4 GIBLE FOR EXCLUSION.—In the case of a non-
5 resident alien individual, subsection (a) shall apply
6 only—

7 “(A) in determining the tax imposed for
8 the taxable year pursuant to section 871(b)(1)
9 and only in respect of dividends which are effec-
10 tively connected with the conduct of a trade or
11 business within the United States, or

12 “(B) in determining the tax imposed for
13 the taxable year pursuant to section 877(b).

14 “(3) DIVIDENDS FROM EMPLOYEE STOCK OWN-
15 ERSHIP PLANS.—Subsection (a) shall not apply to
16 any dividend described in section 404(k).”

17 (b) CONFORMING AMENDMENTS.—

18 (1)(A) Subparagraph (A) of section 135(c)(4)
19 of such Code is amended by inserting “116,” before
20 “137”.

21 (B) Subsection (d) of section 135 of such Code
22 is amended by redesignating paragraph (4) as para-
23 graph (5) and by inserting after paragraph (3) the
24 following new paragraph:

1 “(4) COORDINATION WITH SECTION 116.—This
2 section shall be applied before section 116.”

3 (2) Subsection (c) of section 584 of such Code
4 is amended by adding at the end thereof the fol-
5 lowing new flush sentence:
6 “The proportionate share of each participant in the
7 amount of dividends received by the common trust fund
8 and to which section 116 applies shall be considered for
9 purposes of such section as having been received by such
10 participant.”

11 (3) Subsection (a) of section 643 of such Code
12 is amended by redesignating paragraph (7) as para-
13 graph (8) and by inserting after paragraph (6) the
14 following new paragraph:

15 “(7) DIVIDENDS.—There shall be included the
16 amount of any dividends excluded from gross income
17 pursuant to section 116.”

18 (4) Section 854(a) of such Code is amended by
19 inserting “section 116 (relating to partial exclusion
20 of dividends received by individuals) and” after “For
21 purposes of”.

22 (5) Section 857(c) of such Code is amended to
23 read as follows:

24 “(c) RESTRICTIONS APPLICABLE TO DIVIDENDS RE-
25 CEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31 of the year which includes the date of enactment of this Act.